

231212

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

NOLAN BURLARK,
Plaintiff

vs.

LYCOMING COUNTY PRISON,
DAVID DESMOND, KIM POORMAN,
KEVIN DEPARLOS, TIM MAHONEY, and
JOYCE FAIRFAX,
Defendants

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CIVIL NO. 1:CV-00-2170

JUDGE CALDWELL

ORDER

AND NOW, this _____ day of _____, 2001, upon Motion of Defendants to Deem their Motion to Dismiss Unopposed, it is hereby ORDERED and DIRECTED that Defendants' Motion to Deem Motion to Dismiss Unopposed is granted, and that Defendants' Motion to Dismiss Plaintiff's Complaint which was filed on March 20, 2001, is granted and Plaintiff's Complaint against all Defendants is hereby dismissed.

By the Court,

J.

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(15)
6/20/01
KF

FILED
WILLIAMSPORT, PA

JUN 19 2001

MARY E. D'ANDREA, CLERK
Per KF
DEPUTY CLERK

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

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JUDGE CALDWELL

**DEFENDANT'S MOTION TO
DEEM MOTION TO DISMISS UNOPPOSED**

AND NOW, come Defendants, Lycoming County Prison, David Desmond, Kim Poorman, Kevin DeParlos, Tim Mahoney, and Joyce Fairfax (collectively hereinafter referred to as "Motioning Defendants"), who move this Court to deem their Motion to Dismiss Pursuant to Federal Rule of Civil Procedure 12(b)(6) unopposed and grant said Motion pursuant to Rule 7.6 of the United States District Court for the Middle District of Pennsylvania, and say in support thereof:

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1. Plaintiff filed his Complaint on December 13, 2000, alleging Motioning Defendants violated his civil rights.
2. On March 20, 2001, Motioning Defendants filed a Motion to Dismiss Pursuant to Federal Rule of Civil Procedure 12(b)(6) and filed a Brief in support thereof on April 3, 2001.
3. The undersigned counsel as counsel for Motioning Defendants served copies of the Motion to Dismiss and Brief in support thereof on Plaintiff as evidenced by the Certificates of Service attached to the respective documents.
4. In accordance with Rule 7.6 of the United States District Court for the Middle District of Pennsylvania any party opposing a motion must file a responsive brief within 15 days after service of the movant's brief.
5. In accordance with Federal Rule of Civil Procedure 6(a) and (e), Plaintiff, as respondent to the Motion to Dismiss, was required to file his brief in opposition on or before April 23, 2001.

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6. Plaintiff's failure to comply with Rule 7.6 of the United States District Court for the Middle District of Pennsylvania deems Motioning Defendants' Motion to Dismiss Pursuant to Federal Rule of Civil Procedure 12(b)(6) unopposed.

WHEREFORE, Motioning Defendants request this Court to deem their Motion to Dismiss Pursuant to Federal Rule of Civil Procedure 12(b)(6) unopposed in accordance with Rule 7.6 of the United States District Court for the Middle District of Pennsylvania and to grant said Motion to Dismiss.

Respectfully submitted,

McNERNEY, PAGE, VANDERLIN & HALL

By: 

Robin A. Read, Esquire
I.D. #47629
Attorney for Defendants

433 Market Street
P. O. Box 7
Williamsport, Pennsylvania 17703

Telephone: (570) 326-6555

Dated: 6/19/01

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CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of June, 2001, a copy of Defendants' Motion to Deem Motion to Dismiss Unopposed was served by placing same in the United States Mail, First Class, postage pre-paid, to Mr. Nolan Burlark, Plaintiff, at Lycoming County Prison, MN-41886, 277 West Third Street, Williamsport, Pennsylvania 17701, and the original being filed the same date with the Clerk, United States District Court for the Middle District of Pennsylvania, Harrisburg, Pennsylvania.

McNERNEY, PAGE, VANDERLIN & HALL

BY: 

Robin A. Read, Esquire
I.D. No. 47629
Attorney for Defendants

433 Market Street
PO Box 7
Williamsport PA 17703
Telephone: (570) 326-6555